

FISH AND WILDLIFE AND THE GROWTH MANAGEMENT ACT

The Department of Fish and Wildlife's mandate to preserve, protect, and perpetuate fish and wildlife and their habitat has focused primarily on the agency's authority to regulate activities directly associated with animals. This has included rules regarding the taking, retention, transfer, and disposition of fish and wildlife as set forth in the laws of Washington State. The agency's authority to regulate activities affecting the land base (habitat) is limited. WDFW has regulatory authority only pertaining to bald eagles and work within the high water mark of streams. The agency's primary role in protecting fish and wildlife is that of being an advisor to city and county governments, Department of Natural Resources, and U.S. Forest Service in land use planning, reviewing development proposals, and timber harvest planning.

At the local level, WDFW's advisory role in protecting fish and wildlife habitat owned by private citizens is set forth in the State Environmental Policy Act (SEPA) and the Shoreline Management Act. Through these legislative acts, WDFW may provide comments on the accuracy of environmental documents and offer recommendations to reduce impacts of development on wildlife habitat. It is up to the city or county government to incorporate these comments and recommendations in their permits, and WDFW's counsel may be modified or rejected by the local government.

This has presented a very difficult situation for the Department of Fish and Wildlife. It is axiomatic, at least among biologists, that wildlife management is based on habitat management. Any program to preserve, protect, and perpetuate wildlife must be focused on preservation and protection of habitat, but this is largely outside of WDFW's statutory authority.

In 1990, new state legislation was adopted requiring local governments to address land use concerns beyond the scope of SEPA established nearly two decades ago. This legislation, the Growth Management Act (GMA), requires Washington counties and cities to take a comprehensive, coordinated, proactive approach to land use planning that will guide land development in their jurisdictions into the next century. This approach to land use planning departs considerably from the case-by-case methodology of SEPA.

The GMA requires cities and counties across the state to address land use issues that directly and indirectly impact fish and wildlife habitat. Because 55% of the land base in Washington State is privately owned, the decisions made by local governments regarding land use planning and development significantly affect WDFW's mandate to protect fish and wildlife. For that reason, the GMA is among the most significant pieces of legislation affecting fish and wildlife in Washington in this century.

The GMA does not change the regulatory authority of the Department of Fish and Wildlife. It does reaffirm the central role of local governments through a "bottom-up" approach to land use planning. Therefore, a goal of WDFW is to encourage and assist local governments to adopt policies and regulations that will support the agency's mandate to protect fish and wildlife resources and preserve our state's rich wildlife heritage across a changing landscape.

Purpose and goals of the GMA

Washington State has experienced significant population increases that are projected to continue for at least several decades. Some counties in Washington are among the fastest growing areas in the entire country. For example, Snohomish County is expected to increase 67% over its 1980 population level by the year 2000. Island and San Juan Counties are anticipating population increases of 63% and 62%, respectively, over the same time period. The state as a whole will increase to 5.4 million people by 2000, an increase of 30% over the 1980 population level.

The purpose of the GMA is to avoid the possibility of uncoordinated and unplanned growth inherent in these population increases. Uncontrolled growth and a lack of common goals expressing the public's interest in the conservation and wise use of our lands were seen by the state legislature as threats to the state's environment, sustainable economic development, and the health, safety, and high quality of life enjoyed by its residents. The GMA was intended to protect the public's interest by requiring county and city governments to adopt locally-derived plans and regulations around a basic framework of natural resources issues defined by the state legislature.

Thirteen goals to guide the development of local comprehensive plans and development regulations under the GMA were outlined by the legislature. These goals covered recurring planning issues such as urban sprawl, transportation, housing, and others. Three of the stated goals can be related directly to fish and wildlife resources:

1. "Natural resource industries. Maintain and enhance natural resource-based industries, including productive timber, agricultural, and fisheries industries. Encourage the conservation of productive forest lands and productive agricultural lands, and discourage incompatible uses."
2. "Open space and recreation. Encourage the retention of open space and development of recreational opportunities, conserve fish and wildlife habitat, increase access to natural resource lands and water, and develop parks."
3. "Environment. Protect the environment and enhance the state's high quality of life, including air and water quality, and the availability of water."

Fish and wildlife habitat and the GMA

There are two primary categories of undeveloped land to be addressed in the GMA planning process: **natural resource lands** and **critical areas**. One of the primary intents of the GMA is to prevent unwise use of natural resource and critical areas in accommodating urban growth.

Natural resource lands are of three types, and each is further defined in the legislation:

1. Agriculture land
2. Forest land
3. Mineral land

Critical areas are of five types. All of these critical areas may serve as fish or wildlife habitat, and one is specifically designated for fish and wildlife:

1. Wetlands
2. Aquifer recharge areas
3. Frequently flooded areas
4. Geologically hazardous areas
5. Fish and wildlife habitat conservation areas

Fish and wildlife habitat conservation areas are of primary importance to WDFW. Exactly what constitutes a fish and wildlife habitat conservation area was not specifically defined by the legislature in the GMA. However, the legislature did authorize the Department of Community, Trade, and Economic Development (DCTED) to establish *minimum guidelines* to assist cities and counties in protecting critical areas, including fish and wildlife habitat conservation areas. These minimum guidelines are not mandatory; the legislature said only that the guidelines *shall be considered* by counties and cities when dealing with these lands.

DCTED defined fish and wildlife habitat conservation as "land management for maintaining species in suitable habitats within their natural geographic distribution so that isolated subpopulations are not created". The minimum guidelines developed by the DCTED for fish and wildlife habitat conservation include the following areas:

- a. areas with which endangered, threatened, and sensitive species have a primary association;
- b. habitats and species of local importance;
- c. commercial and recreational shellfish areas;
- d. kelp and eelgrass beds; herring and smelt spawning areas;
- e. naturally occurring ponds under twenty acres and their submerged aquatic beds that provide fish or wildlife habitat;
- f. waters of the state;
- g. lakes, ponds, streams, and rivers planted with game fish by a governmental or tribal entity;
or
- h. state natural area preserves and natural resource conservation areas.

Who must plan and what they must do

There are two distinct parts regarding requirements for protecting critical areas under the GMA. The first part, that of **classifying**, **designating**, and **regulating**, apply to *all* counties, cities, and towns in Washington State.

1. Each jurisdiction must **classify** their resource lands and critical areas. To classify means to define or determine *what* they are and to establish classes or categories for each kind of resource land and critical area. Establishing classes is a process of rating the value or hazard of these areas.
2. Each jurisdiction must **designate** their resource lands and critical areas. To designate means to determine *where* they are. At a minimum, this step involves formally adopting the classification system. It should also establish the general distribution and location of

the different types of resource lands and critical areas; DCTED strongly encourages inventorying and mapping of these areas.

3. Each jurisdiction must adopt **development regulations** for their critical areas. The regulations are to preclude incompatible development in these areas.

The second part of the GMA applies only to counties and the cities therein (any city located within a county that is planning under the GMA must, by default, also plan under the GMA) that meet one of the following criteria:

1. County with a population of 50,000 or more and has had its population increase by more than 10% in the previous 10 years; or,
2. County with a population increase of more than 20% in the previous 10 years; or,
3. County that voluntarily chooses to abide by the provisions of the GMA.

Counties meeting one of these criteria, and therefore obligated to abide by the GMA, must go beyond classifying, designating, and regulating resource lands and/or critical areas. These jurisdictions must also adopt **planning policies** and **comprehensive plans**. The policies and comprehensive plans must address many aspects of urban growth and development that are expected to occur in the county, including land use, housing, utilities, transportation, and others.

There are 18 Washington counties that, because of their population size and/or rate of increase, are required to plan under the GMA. In addition, 11 counties have voluntarily chosen to plan under the GMA. These 29 counties and their associated cities and towns encompass more than 80% of the citizens of the state (Table 1).

Table 1. Counties planning under the Growth Management Act.

Benton*	Island	San Juan
Chelan	Jefferson	Skagit
Clallam	King	Snohomish
Clark	Kitsap	Spokane***
Columbia*	Kittitas*	Stevens**
Douglas*	Lewis***	Thurston
Ferry*	Mason	Walla Walla*
Franklin*	Pacific*	Whatcom
Garfield*	Pend Oreille*	Yakima
Grant	Pierce	

* Chose to plan

** Chose to plan on 9/28/93

*** Required to plan on 7/1/93

Deadlines

The legislature established a timetable for implementation of the GMA that, considering the amount of work required of the counties, is very ambitious. The most important deadlines are:

1. Counties and cities not required or not electing to plan under the GMA were required to adopt regulations for the protection of natural resource lands and critical areas by March 1, 1992; six month extensions to September 1, 1992, were granted by DCTED.
2. For counties and cities initially required or electing to plan under the GMA, interim regulations for the protection of critical areas were to have been adopted by September 1, 1991; extensions were available for up to 6 months (to March 1, 1992). These interim regulations were deemed necessary to prevent a rush of unplanned growth while the final comprehensive plan was being prepared.
3. County-wide planning policies for counties and cities initially required to plan under the GMA were due July 1, 1992.
4. Final comprehensive plans for counties and cities initially required to plan under the GMA were due on or before July 1, 1994. Counties voluntarily choosing to plan or that are later required to plan under the GMA must adopt comprehensive plans within three years of this decision/requirement.
5. Final development regulations for jurisdictions initially required to plan were due July 1, 1994; jurisdictions could request an extension up to six months.

WDFW's response to the GMA

For too long fish and wildlife concerns have been given secondary status and considered as an afterthought in land use planning. The reactive mode of addressing fish and wildlife only after preliminary development plans have been prepared is less effective protection than what might occur if fish and wildlife were made a more integral component of the entire planning process. The GMA now provides incentive for counties and cities to re-assess their current policies regarding fish and wildlife habitat. The GMA will assist local jurisdictions in creating new tools and adopting new programs to more effectively incorporate fish and wildlife concerns into the development of comprehensive plans and protective regulations.

County plans that effectively protect fish and wildlife habitat conservation areas will have immediate benefits regarding two serious shortcomings in our current system of environmental review. First, the problem of cumulative impacts will be more effectively addressed. This has been cited by planners as being the most serious problem regarding fish and wildlife and land use planning across the state. Conducting a comprehensive review of the entire landscape prior to development plans, as provided for in the GMA, will lessen the cumulative impacts inherent in SEPA's site-by-site review procedure.

Second, fish and wildlife do not respect political boundaries that exist only as lines on a map. Proper planning for fish and wildlife should be based on natural features of the landscape that, at a

minimum, include an entire drainage system. The GMA requires interjurisdictional cooperation in the development of planning policies to ensure consistency across political boundaries. This will help planning policies to be consistent throughout an animal's home range. It will also help reduce fragmentation of important habitats and maintain linkages within a habitat network.